

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

**IN RE: APPLE IPHONE 3G AND 3GS
“MMS” MARKETING AND SALES
PRACTICES LITIGATION**

**THIS DOCUMENT RELATES TO ALL
CASES**

CIVIL ACTION

MDL No. 2116

**SECTION “J”
JUDGE BARBIER**

MAGISTRATE JUDGE WILKINSON

**DECLARATION IN SUPPORT OF AT&T MOBILITY LLC’S
MOTION TO COMPEL ARBITRATION**

I, DARCY PANTANO, declare as follows:

1. I have personal knowledge of the following facts, and if called as a witness I could and would testify competently as to their truth.
2. I am employed by Apple Inc. (“Apple”) as Director of Global Retail Communication. I have held this position since February 2010. Prior to my current position, I was the Director for Store Operations and have held management positions from January 2001 until February of 2010. I am familiar with Apple’s policies and procedures in its retail stores in the United States as well as Apple’s business records related to Apple retail store transactions, including iPhone retail sales.

3. When purchasing an iPhone in an Apple retail store, a customer completes the transaction with an Apple retail sales associate using a handheld electronic device, known as an EasyPay device. Customer acceptance of AT&T Mobility LLC's ("AT&T") Terms and Conditions, including AT&T's Wireless Service Agreement, takes place at the point of sale on the EasyPay device. Customers accept AT&T's Terms and Conditions by checking an electronic box on the EasyPay device titled "AT&T Terms and Conditions." After the box is checked, the customer signs his or her name electronically on the EasyPay device to indicate acceptance. True and correct copies of the two EasyPay screens described in this paragraph as they would have appeared in U.S. retail stores in 2008 and 2009 are attached hereto as Exhibit 1. Apple also maintains business records with information related to customer transactions at the point of sale in its retail stores throughout the United States, including a customer's signature on the EasyPay device.

4. I have personally reviewed Apple's internal point-of-sale record regarding plaintiff **Ryan Baxter**'s iPhone 3GS purchase at Apple's Partridge Creek retail store in Clinton Township, Michigan, on June 21, 2009. According to that record, Ryan Baxter assented to AT&T's Terms and Conditions by executing his signature on an EasyPay handheld device. Attached as **Exhibit 2** hereto is a true and correct copy of the Apple record that I reviewed in coming to that conclusion. Exhibit 2 reflects Baxter's electronically stored signature from the EasyPay device on June 21, 2009. The line immediately above Baxter's signature, "AT&T T&C: Y," refers to the second checkbox on the EZ Pay device (attached as Exhibit 1) and indicates Baxter's acceptance of AT&T's Terms of Service prior to signature. Other proprietary information unrelated to this issue has been redacted from Apple's record of Baxter's purchase printouts to preserve confidentiality.

5. I have personally reviewed Apple's internal point-of-sale records regarding plaintiff **Laurie Guenther**'s iPhone 3G purchases at Apple's Topanga retail store in Canoga Park, California, on July 11, 2008. According to those records, Laurie Guenther assented to AT&T's Terms and Conditions by executing her signature on an EasyPay handheld device.

Attached as **Exhibit 3** hereto are true and correct copies of the Apple records that I reviewed in coming to that conclusion. Exhibit 3 reflects Guenther's electronically stored signature from the EasyPay device on July 11, 2008. The line immediately above Guenther's signature, "AT&T T&C: Y," refers to the second checkbox on the EZ Pay device (attached as Exhibit 1) and indicates Guenther's acceptance of AT&T's Terms of Service prior to signature. Other proprietary information unrelated to this issue has been redacted from Apple's records of Guenther's purchase printouts to preserve confidentiality.

6. I have personally reviewed Apple's internal point-of-sale record regarding an iPhone 3G purchase by Anto Kamarian at Apple's Topanga retail store in Canoga Park, California, on October 13, 2008, as well as Apple's record regarding plaintiff **Aida Kamarian's** iPhone 3GS purchase at Apple's Topanga retail store in Canoga Park, California, on October 14, 2009. According to those records, Aida Kamarian assented to AT&T's Terms and Conditions by executing her signature on an EasyPay handheld device. Attached as **Exhibit 4** hereto are true and correct copies of the Apple records that I reviewed in coming to that conclusion. Exhibit 4 reflects Kamarian's electronically stored signature from the EasyPay device on October 14, 2009. The line immediately above Kamarian's signature, "AT&T T&C: Y," refers to the second checkbox on the EZ Pay device (attached as Exhibit 1) and indicates Kamarian's acceptance of AT&T's Terms of Service prior to signature. Other proprietary information unrelated to this issue has been redacted from Apple's records of Kamarian's purchase printouts to preserve confidentiality.

7. I have personally reviewed Apple's internal point-of-sale record regarding plaintiff **Paige Lierman's** iPhone 3GS purchase at Apple's West County retail store in St. Louis, Missouri, on July 2, 2009. According to that record, Paige Lierman assented to AT&T's Terms and Conditions by executing her signature on an EasyPay handheld device. Attached as **Exhibit 5** hereto is a true and correct copy of the Apple record that I reviewed in coming to that conclusion. Exhibit 5 reflects Lierman's electronically stored signature from the EasyPay device on July 2, 2009. The line immediately above Lierman's signature, "AT&T T&C: Y," refers to

the second checkbox on the EZ Pay device (attached as Exhibit 1) and indicates Lierman's acceptance of AT&T's Terms of Service prior to signature. Other proprietary information unrelated to this issue has been redacted from Apple's records of Lierman's purchase printouts to preserve confidentiality.

8. I have personally reviewed Apple's internal point-of-sale record regarding plaintiff **Arturo Molina**'s iPhone 3GS purchase at Apple's Fashion Valley retail store in San Diego, California, on July 29, 2009. According to that record, Arturo Molina assented to AT&T's Terms and Conditions by executing his signature on an EasyPay handheld device. Attached as **Exhibit 6** hereto is a true and correct copy of the Apple record that I reviewed in coming to that conclusion. Exhibit 6 reflects Molina's electronically stored signature from the EasyPay device on July 29, 2009. The line immediately above Molina's signature, "AT&T T&C: Y," refers to the second checkbox on the EZ Pay device (attached as Exhibit 1) and indicates Molina's acceptance of AT&T's Terms of Service prior to signature. Other proprietary information unrelated to this issue has been redacted from Apple's records of Molina's purchase printouts to preserve confidentiality.

9. I have personally reviewed Apple's internal point-of-sale record regarding plaintiff **Gerard Padden**'s iPhone 3G purchase at Apple's SoHo retail store in New York, New York, on November 23, 2008. According to that record, Gerard Padden assented to AT&T's Terms and Conditions by executing his signature on an EasyPay handheld device. Attached as **Exhibit 7** hereto is a true and correct copy of the Apple record that I reviewed in coming to that conclusion. Exhibit 7 reflects Padden's electronically stored signature from the EasyPay device on November 23, 2008. The line immediately above Padden's signature, "AT&T T&C: Y," refers to the second checkbox on the EZ Pay device (attached as Exhibit 1) and indicates Padden's acceptance of AT&T's Terms of Service prior to signature. Other proprietary information unrelated to this issue has been redacted from Apple's records of Padden's purchase printouts to preserve confidentiality.

10. I have personally reviewed Apple's internal point-of-sale records regarding plaintiff **Philip Sterker**'s iPhone 3GS purchases at Apple's Burlingame retail store in Burlingame, California, on July 21, 2009. According to those records, Philip Sterker assented to AT&T's Terms and Conditions by executing his signature on an EasyPay handheld device. Attached as **Exhibit 8** hereto are true and correct copies of the Apple records that I reviewed in coming to that conclusion. Exhibit 8 reflects Sterker's electronically stored signature from the EasyPay device on July 21, 2009. The line immediately above Sterker's signature, "AT&T T&C: Y," refers to the second checkbox on the EZ Pay device (attached as Exhibit 1) and indicates Sterker's acceptance of AT&T's Terms of Service prior to signature. Other proprietary information unrelated to this issue has been redacted from Apple's records of Sterker's purchase printouts to preserve confidentiality.

11. I have personally reviewed Apple's internal point-of-sale record regarding plaintiff **Matt Sullivan**'s iPhone 3GS purchase at Apple's Crocker Park retail store in Westlake, Ohio, on July 22, 2009. According to that record, Matt Sullivan assented to AT&T's Terms and Conditions by executing his signature on an EasyPay handheld device. Attached as **Exhibit 9** hereto is a true and correct copy of the Apple record that I reviewed in coming to that conclusion. Exhibit 9 reflects Sullivan's electronically stored signature from the EasyPay device on July 22, 2009. The line immediately above Sullivan's signature, "AT&T T&C: Y," refers to the second checkbox on the EZ Pay device (attached as Exhibit 1) and indicates Sullivan's acceptance of AT&T's Terms of Service prior to signature. Other proprietary information unrelated to this issue has been redacted from Apple's records of Sullivan's purchase printouts to preserve confidentiality.

12. I have personally reviewed Apple's internal point-of-sale record regarding plaintiff **Tim Williams**'s iPhone 3GS purchase at Apple's Sherman Oaks retail store in Sherman Oaks, California, on July 11, 2009. According to that record, Tim Williams assented to AT&T's Terms and Conditions by executing his signature on an EasyPay handheld device. Attached as **Exhibit 10** hereto is a true and correct copy of the Apple record that I reviewed in coming to that

conclusion. Exhibit 10 reflects Williams's electronically stored signature from the EasyPay device on July 11, 2009. The line immediately above Williams's signature, "AT&T T&C: Y," refers to the second checkbox on the EZ Pay device (attached as Exhibit 1) and indicates Williams's acceptance of AT&T's Terms of Service prior to signature. Other proprietary information unrelated to this issue has been redacted from Apple's records of Williams's purchase printouts to preserve confidentiality.

I declare under penalty of perjury that the foregoing is true and correct. Executed at London, England on August 6, 2010.


DARCY PANTANO